

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-200321.2

DATE: June 9, 1981

MATTER OF: Harris Corporation

DIGEST:

Protest that two other procurements are substitutes for canceled procurement is denied where only evidence is conflicting statements of protester and contracting agency, since protester has not carried burden of proof.

Harris Corporation (Harris) protests the cancellation of solicitation No. 379748, issued by the Argonne National Laboratory (ANL), a Government-owned, contractor-operated facility under the authority of the Department of Energy (DOE). The solicitation was for automatic data processing equipment (ADPE) for the Solid State Sciences Division of ANL.

Harris initially protested the proposed award of a contract to the Digital Equipment Corporation (DEC) under that solicitation. Harris alleged that DEC's offer was technically unacceptable and that DEC's price was higher. Harris later alleged that the award was, in effect, a sole-source award. In response to that protest, DOE found that irregularities had occurred in the procurement process and, consequently, canceled the solicitation and withdrew the requirement pending further study. Harris did not object, at that time, to DOE's action, so the protest was closed without action.

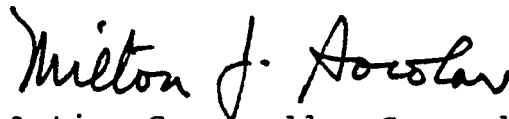
Harris now argues that two other procurements of ADPE involving an award and a proposed award to DEC by ANL are substitutes for the withdrawn requirement. On that basis, Harris asks us to consider its original protest.

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DOE denies that either procurement is a reprourement for the canceled Solid State Sciences Division's requirement. According to DOE, one procurement was for ANL's Physics Division. The order for the equipment was placed on August 28, 1980--before Harris had even filed its initial protest. The other procurement is for the Chemistry II Department and is still under review by DOE.

Harris has not supported its allegation with any evidence. Protesters have the burden of affirmatively proving their cases, and where, as here, conflicting statements of the protester and the contracting agency constitute the only evidence, the burden has not been met. Spacesaver Systems, Inc., B-197174, August 25, 1980, 80-2 CPD 146.

The protest is denied.

A handwritten signature in dark ink, reading "Milton J. Aorolar". The signature is fluid and cursive, with the first name "Milton" and last name "Aorolar" being the most prominent parts.

Acting Comptroller General
of the United States